

# **EXHIBIT 1**

**From:** [Rand Nolen](#)  
**To:** [Duncan, Laura \(ENRD\)](#); [Tardiff, Kristine \(USANH\)](#)  
**Cc:** [Dutton-Bynum, Amber \(ENRD\)](#); [Formanek, Anne \(ENRD\)](#); [rsmithoff@mithofflaw.com](#); [David Hobbs](#); [Russell Post](#); [Parth Gejji](#); [H.C. Chang](#); [Morris, Frances \(ENRD\)](#); [Teresa Demetriou](#); [Warner Hocker](#); [Jack McGehee](#); [Pam Myers](#); [Warner Hocker](#); [Larry Dunbar](#)  
**Subject:** [EXTERNAL] Plaintiffs" deposition excerpts for opening and for expert  
**Date:** Tuesday, October 22, 2024 4:13:48 PM

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Laura and Kris:

As I promised Judge Smith, below are the deposition clips we will play in opening:

Long deposition:

Page 38, line 18 to page 39, line 21

Zetterstrom, deposition:

Page 87, line 18 to 25; page 89, line 19 to 24

Thomas deposition:

Page 275, line 2 to line 11

Long deposition:

Page 45, line 16 to page 46, line 1

Zetterstrom deposition:

Page 143, line 4 to 6.

Page 141, line 6 to 11

Here is a link to the actual clip:

<https://spaces.hightail.com/receive/OUqm6RHWzS>

This link will expire on 10/31/2024.

Additionally, we intend to utilize the following video clips with our expert Matt Bardol during his direct testimony.

Rand

	Line and Page
Clip 1	<p>Long deposition: Page 38, line 18 to page 39, line 21</p> <p>Zetterstrom, deposition: Page 87, line 18 to 25; Page 89, line 19 to 24</p>

	<p>Thomas deposition: Page 275, line 2 to line 11</p> <p>Flanagan deposition: Page 40, line 13-18</p>
Clip 2	<p>Thomas deposition: Page 274, line 4 to 15</p> <p>Long deposition: Page 39, line 22 to page 41, line 2</p>
Clip 3	<p>Long deposition: Page 45, line 16 to page 46, line 1</p> <p>Thomas deposition: Page 676, line 11-15 Page 677, line 25 to page 678, line 6</p> <p>Zetterstrom deposition: Page 141, line 6 to 11 Page 143, line 4 to 6.</p>
Clip 4	<p>Long deposition: Page 29, line 22 to page 30, line 11</p> <p>Zetterstrom deposition: Page 12, line 24 to page 13, line 25</p> <p>Maglio deposition: Page 173, line 12-18 Page 131, line 14 to 25</p> <p>Thomas deposition: Page 139, line 11 to 17</p>

***Rand Nolen***

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# **EXHIBIT 2**

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

*Electronically filed October 15, 2024*

IN RE DOWNSTREAM ADDICKS AND	)	
BARKER (TEXAS) FLOOD-CONTROL	)	Master Docket No. 17-9002
RESERVOIRS	)	
	)	Senior Judge Loren A. Smith
THIS DOCUMENT RELATES TO:	)	
	)	
ALL DOWNSTREAM CASES	)	
	)	
	)	

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**PLAINTIFFS' ORDER OF WITNESSES**

Pursuant to the Court's September 19, 2024 Supplemental Pre-trial Order, ECF no. 540, Plaintiffs file their order of witnesses for trial, and show the following:<sup>1</sup>

**Plaintiffs' Anticipated Order of Witnesses**

1. Plaintiffs' Expert – Matthew Bardol, P.E., CFM, CPESC, D.WRE  
Geosyntec Consultants  
1420 Kensington Rd, Suite 103  
Oak Brook, IL 60523  
and  
8217 Shoal Creek Blvd., Suite 200  
Austin, Texas 78757  
Telephone: (630)203-3368
2. USACE – Coraggio Maglio
3. USACE – Robert Thomas
4. USACE – Colonel Lars Zetterstrom
5. USACE – Michael Kauffman
6. John Rick Flanagan (Fed. R. Civ. P. 30(b)(6) deposition taken previously)  
Former Emergency Manager

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<sup>1</sup> Plaintiffs incorporate by reference Plaintiffs Amended Witness List for trial, filed previously pursuant to the Court's pre-trial Order of August 28, 2024, ECF no. 528.

City of Houston – Office of Emergency Management  
5320 N. Shepherd Dr.  
Houston, Texas 77091  
Telephone: (713) 884-4500

7. USACE – Richard Long

**Rebuttal Witnesses**

Plaintiffs do not currently anticipate the need for rebuttal witnesses. However, Plaintiffs previously identified each of the people identified below as potential witnesses and reserve the right and provide notice that one or more of the witnesses identified herein may be called as rebuttal witnesses if the need arises.

Braxton Coles (Fed. R. Civ. P. 30(b)(6) deposition)  
Manager Storm Water Maintenance – City of Houston  
Houston Drainage Maintenance Office  
900 Bagby  
Houston, Texas 77002  
Telephone (713) 837-0311

Jamila Johnson (Fed. R. Civ. P. 30(b)(6) deposition)  
Floodplain Manager – City of Houston  
City of Houston Floodplain Management Office  
900 Bagby  
Houston, Texas 77002  
Telephone (713) 837-0311

Steven Fitzgerald (Fed. R. Civ. P. 30(b)(6) deposition)  
Chief Engineer – Harris County Flood Control District (Retired)  
Harris County Flood Control District,  
9000 Northwest Freeway  
Houston, Texas 77092  
(346) 286-4000

**Test Property Plaintiffs:**

Aldred, Val	835 Thornvine Ln, Houston, TX 77079
Beyoglu, Gokhan and Jana	107 Warrenton Dr, Houston, TX 77024

Cutts, Paul and Dana	311 Blue Willow Dr, Houston, TX 77042
Godejord, Arnstein and Inga	14334 Heatherfield Dr, Houston, TX 77079
Jeremy Good for Good Resources LLC	760 Memorial Mews St. #4, Houston, Texas 77079
Hollis, Wayne JR and Peggy	14914 River Forest Dr, Houston, TX 77079
Corporate Representative (and/or John Britton) for Memorial SMC Investment 2013 LP	777 S. Mayde Creek Dr, Houston, TX
Milton, Virgnia	850 Silvergate Dr, Houston, TX 77079
Shipos, Jennifer	931 Bayou Parkway, Houston, TX 77077
Silverman, Peter and Zhennia	12515 Westerley Ln , Houston, TX 77077
Welling, Shawn	5731 Logan Ln, Houston, TX 77007

Dated: October 15, 2024

Respectfully submitted,

/s/ Rand P. Nolen

Rand P. Nolen

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/s/ Jack E. McGehee

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/s/ Richard Warren Mithoff

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Appointed *Co-Lead Counsel for Plaintiffs*

/s/ Russell S. Post

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*Of Counsel for Plaintiffs*

# **EXHIBIT 3**

## INITIAL EXPERT OPINION REPORT

### In Re Downstream Addicks and Barker (Texas) Flood-Control Reservoirs

*Prepared for:*  
**Downstream Litigation Leadership Team**

*On Behalf of:*

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Houston, TX 77042

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Houston, TX 77002

Fleming, Nolen & Jez, LLP  
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*Prepared by:*

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Robert Bachus, Ph.D., P.E.<sup>2</sup>, D.GE

**Geosyntec**   
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<sup>2</sup> Professional Engineer licensed in GA, AR, MS, PA, KY, TN, AL, NC



PRIVILEGED AND CONFIDENTIAL  
 SUBJECT TO THE ATTORNEY CLIENT PRIVILEGE  
 AND WORK PRODUCT DOCTRINE

Initial Expert Opinion Report  
 Geosyntec Consultants, Inc.  
 13 November 2018

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#### **1.4 Scope and Bases of Opinions**

Geosyntec was asked to conduct an evaluation of the hydrologic and hydraulic impacts of Hurricane Harvey in conjunction with the operation of the Addicks and Barker Reservoirs on behalf of the Downstream Litigation Leadership Team. We reviewed the following data and documents in preparation for this Report, and these data and documents serve as the bases of our opinions. We reviewed a two-dimensional (2D) model developed by the USACE using the USACE Hydrologic Engineering Center (HEC) River Analysis System (RAS) software version 5.0.5 (HEC-RAS). We also reviewed the one-dimensional (1D) HEC-RAS model developed by the Harris County Flood Control District (HCFCD) which is the basis of the regulatory Federal Emergency Management Agency (FEMA) effective floodplain models for Harris County. Furthermore, we reviewed Dr. Phil Bedient's (Herman Brown Professor of Engineering at Rice University) modifications to the HCFCD 1D HEC-RAS model. We reviewed hydrology models including the HCFCD regulatory model based on the USACE Hydrologic Engineering Center Hydrologic Modeling System (HEC-HMS), as well as Dr. Bedient's HEC-HMS model simulating flows during Hurricane Harvey. We also reviewed additional data and testimony as indicated below.

- USACE 2D HEC-RAS model (provided as modeling files during discovery labeled with Bates number USACE189773)
- HCFCD 1-D HEC-RAS model (HCFCD, 2018a)
- Dr. Bedient's 1D HEC-RAS model (Bedient, 2018)
- HCFCD HEC-HMS model (HCFCD, 2018a)
- 1962 Reservoir Regulation Manual (RRM) for Addicks and Barker Reservoirs Initial and Emergency Instructions to Dam Tender (USACE, 1962)
- 2012 Water Control Manual (WCM) for Addicks and Barker Reservoirs, Buffalo Bayou and Tributaries, San Jacinto River Basin, TX (USACE, 2012)
- 2014 Emergency Action Plan (EAP) for Addicks and Barker Reservoirs, Buffalo Bayou and Tributaries (USACE, 2014)
- USACE "Hurricane Harvey Flood Inundation Mapping After Action Report" (USACE, 2018)
- USACE spreadsheet of pool level, gate outflow rates, rate of rise (RoR), and calculated inflow rates typically referred to as the "morning report" according to Kauffman deposition (provided as spreadsheet during discovery labeled with Bates number USACE006034)
- U.S. Geological Survey (USGS) stream flow and water surface elevation (WSE) gauge data (USGS, 2018) at the following locations:
  - 08072500 Barker Res nr Addicks, TX
  - 08072600 Buffalo Bayou at State Hwy 6 nr Addicks, TX
  - 08073000 Addicks Res nr Addicks, TX

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- 08073100 Langham Ck at Addicks Res Outflow nr Addicks, TX
- 08073500 Buffalo Bayou nr Addicks, TX
- 08073600 Buffalo Bayou at W Belt Dr, Houston, TX
- 08073700 Buffalo Bayou at Piney Point, TX
- 08074000 Buffalo Bayou at Houston, TX
- Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for Harris County, Texas (FEMA, 2017)
- Downstream plaintiff testimony including the following plaintiffs:
  - Arnold Milton testimony on 10 July 2018 (Milton, 2018a)
  - Virginia Milton testimony on 10 July 2018 (Milton, 2018b)
  - Jennifer Shipos testimony on 19 September 2018 (Shipos, 2018)
  - John Britton, for SMC Memorial Investment 2013 LP, testimony on 16 July 2018 (Britton, 2018)
  - Jeremy Good, for Good Resources LLC, testimony on 19 July 2018 (Good, 2018)
  - Val Aldred testimony on 1 August 2018 (Aldred, 2018)
  - Peggy Hollis testimony on 19 July 2018 (Hollis, 2018a)
  - Wayne Hollis testimony on 19 July 2018 (Hollis, 2018b)
  - Peter Silverman testimony on 18 July 2018 (Silverman, 2018a)
  - Zhennia Silverman testimony on 18 July 2018 (Silverman, 2018b)
  - Arnstein Godejord testimony on 17 September 2018 (Godejord, 2018a)
  - Igna Godejord testimony on 17 September 2018 (Godejord, 2018b)
  - Dana Cutts testimony on 27 June 2018 (Cutts, 2018a)
  - Paul Cutts testimony on 27 June 2018 (Cutts, 2018b)
  - Gokhan Beyoglu testimony on 18 September 2018 (Beyoglu, 2018b)
  - Jana Beyoglu testimony on 18 September 2018 (Beyoglu, 2018a)
  - Phillip Azar testimony on 9 July 2018 (Azar, 2018)
  - Tim Stahl testimony on 5 September 2018 (Stahl, 2018)
  - Shawn Welling testimony on 14 August 2018 (Welling, 2018)
  - Dutch Lindeburg testimony on 26 September 2018 (Lindeburg, 2018)
- USACE witness testimony including the following witnesses:
  - Michael Kauffman expert testimony on 25 September 2018 (Kauffman, 2018)
  - Robert Thomas expert testimony on 31 July 2018, 3 August 2018, and 7 September 2018 (Thomas, 2018)
  - Jeff Lindner expert testimony on 24 September 2018 (Lindner, 2018)
  - Jamila Johnson expert testimony on 19 October 2018 (Johnson, 2018)

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- Braxton Coles expert testimony on 19 October 2018 (Coles, 2018)
- Texas Natural Resources Information System (TNRIS) elevation data (TNRIS, 2018)
- HCFCD precipitation data sources (HCFCD, 2018b)
- High water marks (provided as spreadsheet during discovery labeled with Bates number FEMA004231, summary tables labeled with Bates numbers USACE150516 and USGS0000032, and shapefile labeled with Bates number FEMA004230)

The list of documents considered and the modeling files referenced above can be found in **SECTION 10** at the end of this Report.

Given the limited time period for submission of this Report under the Court's schedule, we have not undertaken an effort to address all of the points and issues associated with this case, and we may revise or supplement the information in this Report as we continue to review the testimony of technical experts and eyewitnesses, the digital model files provided, and the Expert Reports submitted to the court.

We also reserve the right to examine additional information as it becomes available, including through further discovery in this case, and to add to or modify our opinions based on such additional information.